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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/543,041	01/20/2006	Victor H Pereverzev	RJMC	9180
26371	7590	01/09/2009		
FOLEY & LARDNER LLP 777 EAST WISCONSIN AVENUE MILWAUKEE, WI 53202-5306			EXAMINER RODRIGUEZ, PAMELA	
			ART UNIT	PAPER NUMBER
			3657	
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			01/09/2009 PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/543,041

Applicant(s)

PEREVERZEV, VICTOR H

Examiner

Pam Rodriguez

Art Unit

3657

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/55/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because in lines 3 and 6 the word "means" is used and in lines 4 and 7, the word "said" is used. Also the abstract should be in one paragraph form. Correction is required. See MPEP § 608.01(b).
2. The disclosure is objected to because of the following informalities: on page 1 line 17 the word —a—should be inserted before the word "certain", on page 2 line 20 the phrase "which allows" should be deleted, and on page 2 line 21 the word —a—should be inserted before the word "design".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the small open flow areas" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitations "the blind side" and "rod end" in line 3. There is insufficient antecedent basis for these limitations in the claim.

Also, in line 3 of Claim 1, the term "the other way" is indefinite. It is unclear what the term means. In other words, what other way is the fluid supposed to flow?

Claim 1 also recites the limitation "the capacity decrease" in the last two lines of the claim. There is insufficient antecedent basis for this limitation in the claim.

And lastly, Claim 1 recites the limitation "the load" in the last line of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Russian Patent No. 2,020,310 to Litvinov et al.

Regarding Claim 1, Litvinov et al disclose a method for regulating the hydraulic resistance of a shock absorber during the operation thereof (see the translated abstracts), which includes forced flow of hydraulic fluid through small open flow areas 9, 16, and the area around element 10 from the blind side (see the Figure and the chamber just below nut 15) towards the rod end (see the Figure and the chamber above piston 4) and the other way having all the features of the instant invention including: that the open flow areas 9, 16, and the area around element 10 are created with varying capacity (see the Figure) that is achieved with the use of mutually traveling metering

components 10/14/16 and is changed through effect of hydraulic pressure differences on the components at the blind side and rod end so that a capacity decrease is caused by increase of the load at the shock absorber (see the translated abstracts and the Figure).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 2,240,644 to Focht, U.S. Patent No. 3,598,205 to Kenyon, U.S. Patent No. 4,993,522 to Wagner, U.S. Patent No. 5,102,109 to Schnetz, Russian Patent No. 2,145,011 to Alekseev et al., and Russian Patent No. 2,145,010 to Ivanov et al all disclose shock absorber structures similar to applicant's.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pam Rodriguez whose telephone number is 571-272-7122. The examiner can normally be reached on Mondays 5:30 AM - 4 PM and Tuesdays 8 AM - 2 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rob Siconolfi can be reached on 571-272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Pam Rodriguez
Primary Examiner
Art Unit 3657

/Pam Rodriguez/
Primary Examiner, Art Unit 3657
01/05/09